

### **REMARKS**

This is in response to the Office Action dated October 5, 2004.

Claims 5, 9, 12, 16, 29, 42, and 44 are amended, no claims are canceled, and no claims are added; as a result, claims 1-49 are now pending in this application. The amendments to the claims are fully supported by the specification as originally filed. No new matter is introduced. The amendments are made to clarify the claims. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

#### **Objection to the Claims**

Claim 16 was objected to due to an informality. Claim 16 is amended to overcome this objection. Applicant respectfully requests withdrawn of this objection to claim 16, and reconsideration and allowance of this claim.

#### **Double Patenting Rejection**

Claims 1 and 3-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-7 of co-pending Application No. 09/393,463 in view of "Feedback Cancellation in Hearing Aids: Results from a Computer Stimulation", by Kates and in further view of Kuo (U.S. Patent No. 6,097,823).

Claims 1, 2 and 9-16 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 36-39 and 46-50 of co-pending Application No. 09/393,463 in view of "Feedback Cancellation in Hearing Aids: Results from a Computer Stimulation", by Kates and in further view of Kuo (U.S. Patent No. 6,097,823).

Claims 17-49 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-15, 18-21, 23-35 and 40-45 of co-pending Application No. 09/393,463.

Applicant will address these rejections when the claims are otherwise indicated as allowable.

§112 Rejection of the Claims

Claim 5 was rejected under 35 USC § 112, second paragraph, as being indefinite.

Claim 5 is amended. Applicant submits that claim 5 satisfies 35 USC § 112 and respectfully requests withdrawn of this rejection to claim 5, and reconsideration and allowance of this claim.

§103 Rejection of the Claims

Claims 1, 3, 4, 5, 17, 18, 20-22, 41 and 43 were rejected under 35 USC § 103(a) as being unpatentable over “Feedback Cancellation in Hearing Aids: Results from a Computer Stimulation”, by Kates in view of Kuo (U.S. Patent No. 6,097,823).

Claims 1-4, 6-8, 17, 19-20, 23, 25, 27-28, 39-41 and 49 were rejected under 35 USC § 103(a) as being unpatentable over Goodings et al. (U.S. Patent No. 5,259,033) in view of Kuo (U.S. Patent No. 6,097,823).

Claims 1, 17, 23, 24, 26 and 28 were rejected under 35 USC § 103(a) as being unpatentable over Finn et al. (U.S. Patent No. 6,496,581) in view of Goodings et al. (U.S. Patent No. 5,259,033), and further in view of Kuo (U.S. Patent No. 6,097,823).

Applicant traverses these grounds of rejection of these claims. Further, Applicant reserves the right to swear behind Kuo and Finn et al. (hereafter Finn) at a later date.

With respect to claim 19, in the Office Action, it is stated that “Thurmond for example, discloses a compressor.” Applicant cannot find in the Office Action a citation for Thurmond with respect to a U.S. patent number, an international patent number, or other citation of publication. Applicant respectfully requests that a reference citation identifying the Thurmond reference be provided.

In the Office Action, Kuo is cited in all rejections with respect to a narrowband probe. In the Office Action, it is stated, with respect to Kuo, that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a generator that generates a chirp signal (i.e. a chirp signal is an equivalent probe signal wherein at an instantaneous moment it is a narrow band signal) to inject into the system as a probe signal.” Applicant respectfully disagrees. Applicant submits that a narrowband signal is different from an instantaneous moment of a chirp signal. Additional features must be applied to the chirp

signal to use the instantaneous moment of a chirp signal as a narrowband signal, such as processing the chirp signal to obtain the instantaneous moment as a narrowband signal for use as a probe signal. Applicant cannot find a teaching or a suggestion of such additional features in the cited references. Further, no reference or objective evidence has been provided in the Office Action to support the statement quoted above. Applicant submits that the only teaching, suggestion, and motivation of record regarding a narrowband signal for use as recited in independent claims 1 and 17 is provided in the Applicant's disclosure. Therefore, Applicant submits that the cited combinations of references do not teach or suggest all the elements of claims 1 or 17. Thus, Applicant submits that claims 1 and 17 are patentable over the cited references for at least the reasons stated above. Further, the claims dependent on independent claims 1 and 17 are patentable over the cited references for at least the reasons stated above.

Applicant respectfully requests withdrawal of these rejections of claims 1-8, 17-28, 39-41, 43, and 49 and reconsideration and allowance of these claims.

Allowable Subject Matter

Claims 9-16, 29-38, 42, and 44-48 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9, 12, 29, 42, and 44 are amended into independent form including all of the limitations of the base claim and any intervening claims. Claims 10 and 11, claims 13-16, claims 30-38, and claims 45-48 depend on claims 9, 12, 29, and 44, respectively. Thus, Applicant submits that claims 10, 11, 13-16, 30-38, and 45-48 are patentable.

Applicant respectfully requests withdrawal of these objections to claims 9-16, 29-38, 42, and 44-48, and reconsideration and allowance of these claims.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 371-2157 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 2 February 2005

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2 day of February, 2005.

Paula Suchy  
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Paula Suchy  
Signature